

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MONSANTO COMPANY and  
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

VS.

E.I. DUPONT DE NEMOURS AND  
COMPANY and PIONEER HI-BRED  
INTERNATIONAL, INC.,

Defendants.

Case No. 4:09-cv-00686-ERW

E.I. DUPONT DE NEMOURS AND  
COMPANY and PIONEER HI-BRED  
INTERNATIONAL, INC.,

INTERNATIONAL, INC.,

Defendants.

Defendants.

Defendants.

Defendants.

**MONSANTO'S FIFTH MOTION TO COMPEL**

Plaintiffs Monsanto Company and Monsanto Technology LLC (collectively “Monsanto”) respectfully move the Court for an order compelling Defendants, E.I. du Pont de Nemours and Company (“DuPont”) and Pioneer Hi-Bred International, Inc. (“Pioneer”) (collectively, “Defendants”) to provide any and all documents and testimony, including attorney-client privileged communications with counsel, relating to Defendants’ understanding of (i) stacking rights and restrictions under the 2002 Roundup Ready® License Agreements and (ii) stacking rights and restrictions as were negotiated by the parties under a September 2007 amendment to the YieldGard License Agreement. Monsanto incorporates by reference its memorandum in support as if fully stated herein.

Pursuant to Local Rule 37-3.04, counsel for the parties have met and conferred on several occasions in good faith attempts to resolve their discovery disputes, including as set forth in the deposition testimony cited in the memorandum in support, correspondence from Monsanto's counsel to Defendants' counsel dated February 25, 2011, and Defendants' response letter dated March 1, 2011. On January 7, 2011, Greg Gutzler and Gail Standish (Plaintiffs' counsel)

participated in a phone call with Leora Ben-Ami (Defendants' counsel) asking that Defendants produce these documents. Notwithstanding these efforts, counsel have been unable to reach resolution of their disputes.

WHEREFORE, Monsanto respectfully requests that its Fifth Motion to Compel be GRANTED and Defendants be required to provide all previously withheld privileged documents and answer deposition questions (including re-producing witnesses) relating to Defendants' understanding of stacking restrictions under the License Agreements, including communications with legal counsel. Defendants should also be compelled to provide all previously withheld privileged documents and answer deposition questions relating to Defendants' understanding of stacking rights under the September 2007 amendment to the YieldGard License Agreement, including communications with counsel.

Dated: March 4, 2011

Respectfully submitted,

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By: /s/ Joseph P. Conran .  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4th day of March, 2011, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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